G R S App F IX 4]

1942-43 (ML)

File No 179-42

Previous References

Serial Nos 1 2

Later References
ML 144-45 (1-2)

GENERAL AND REVENUE SECRETARIAT

Serial Nos 2

Part B for Feb 1943

SUBJECT

Mr Kolla Narasimha Setty claiming damages from Mr B S Raghavendrachar for an alleged malicious prosecution

SR 2)

To
The Regr of CS
States that the matter need not be taken Cognizance of
L 8167 dt 17 2 43

KK 1.3.43

2769 AF 5385 P

Continuation Sheet | File No / Current No | Page 1

Letter No 280, dated the 1st July 1962 regarding [illegible] a letter from the Asstt Collector Customs, Amritsar, for an act done in the course of duty as Excise Officer, Amritsar & the Article Misc Case, Enquiry and requesting instructions of the Legal Department.

This is a matter to be dealt with in the Protection Branch and may kindly be transferred there for further action.

The Protection Branch will have to take necessary action, in consultation with the L S G Branch if necessary.

GENERAL SECRETARY
RECEIVED 16 FEB 1973

Genl Secy 5/2/63.

Addl Secy (Protection) 5/2

Joint Secy (Protection) 5/2

Dy Secy 5/2

The Note under reference under clause "c" is one issued under section 178 of the Customs Act and not one issued under section 80 C - P C It has therefore been transferred to the L S G Branch for disposal.

9/2

Asstt Secy

Mr KPS

Pl note on the cover

10/2/63

Reverse of Flag C

9 The notice has been issued on behalf of Mr Kola Narasimha Setty claiming damages from (1) the President, Arsikere Town Municipal Council (2) D.S Raghavendracharya the then President of the Municipal Council for malacious prosecution and demanding recovery of Rs 3000/- under Section 17 of the Mysore Town Municipalities Act, 1933. Under the provisions of the said Section a Suit for the alleged action can be instituted after the expiry of two months next after notice (which was issued to Mr Raghavendra char on 12-1-43) by the party

10 The alleged action was done by Mr Raghavendra char in his official capacity as ex-officio President of the Arsikere Town Municipal Council under Rule 3-9 of the Rules for the Conduct of Govt Servants, previous Sanction of Govt has to be obtained before the officer takes recourse to any Court and Govt will decide in granting Sanction as ~~to whether Govt should bear~~ the cost of proceedings ~~in~~ this case, if the Suit is instituted against Mr Raghavendracharya, the expenses for defence will have to be met by the Arsikere Town Municipal Council as the alleged act was done in the interest of that Municipality

Mr Raghavendra char has Solicited

must rule as to whether (1) he should
must sections as to whether (1) he should
take cognizance of the advocates notice
issued to him and (2) what reply he may
give to the advocate in the matter

12 The Law Section may perhaps
be requested kindly to advise in the matter

SECY LAW DEPT 9488 1 DEPT OF STATE

Law
11/2/43

Law Secy 11/2/43

In favor of notice 13 cm 11-2-43

Asst Secy Law (WE) 14 Lw 12/2/43

14 L

Law 180 P 184/12
12 2 1943

15 The Notice contemplates to give Representation & Damages Perhaps it is a suit for Damages due to malicious prosecution but Representation has done an act in his official capacity as President of the Notice & issued them not as President, but in his private capacity. He has for a good defence. We need not take cognizance of the Notice at all

SECY LAW DEPT 9587 GOVT

Law Secretary

16 Agrees

3
12/2/43

Cm
13-2-43

Asst Secy
Law
WE 17 3
13/2/43

5-55 PM
Lw
13/2/43

WD 1140—GPB—50 000—5-11-42

18 Draft upon advice
Law

Mr Kelly Navy Ambassador Clearing Dunkerque from the Odt of the Armistice Townsend

Continuation Sheet. III File No 4804 / Current No 1782 of Ver Page

Submitted with a draft letter to the Registrar of the operative Societies

Kenyon 13 Dec 43

20 Draft

Lawrence 13/12/43

21 Secretary

Ellis 15-12-43

Sec 16 12 43

Ellis 16-12-43

Issue attached

16/12/43

"The Registrar of Co operative Societies

No 8167 of 17-12-43

Issues certain instructions

B

EXTRACTED FOR FCOL S G & P H Date 16-2-44 No 6537

D D letter No 1/42-43 dated 15th January 1943 from the

GOVERNMENT OF MYSORE

No 780 7 C S Enclosure

DEPARTMENT OF CO OPERATION

Telegraphic Address
CO OPERT
Bangalore

OFFICE OF THE REGISTRAR OF CO OPERATIVE SOCIETIES
IN MYSORE

Dated Bangalore 1st February *194* 3

Mc 179-42-1

FROM K Subba Rao, Esqr , B A, LL B ,
Registrar of Co operative Societies in Mysore

- 1 FEB 1943
BANGALORE

GENERAL SECRETARY
2 FEB 1943

The Secretary to Government
of Mysore, General Department,
Bangalore

Sir,

I have the honour to forward, herewith, for the information of Government a copy of letter No 1/42-43 dated 15th January 1943 with a copy of the enclosure thereto received from Mr D S Raghavendrachar, Msc, Asst Commissioner doing duty as Asst Registrar of Co-operative Societies, Mysore Division, and to state that the notice has been issued to the said officer for an act done in his official capacity as ex-officio President of the Arsikere

P T O

For Registrar

D D letter No 1/42-43 dated 15th January 1943 from the Asst Registrar of Co-operative Societies, Mysore Division to the Registrar of Co-operative Societies in Mysore, Bangalore

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I write to submit, herewith, a copy of the advocate's notice dated the 12th January 1943 issued to me by Mr H V Krishna Rao, B A , LL B , Advocate, No 2 Police station Road, Basavangudi. Bangalore, demanding damages from me for a complaint lodged with the police by me as Ex-Officio President of the Arsikere Town Municipality against Mr Kolla Narasimha Setty, Merchant, Arsikere Town The notice is issued to me as the then President of the Municipality under section 178 of the Town Municipalities Act for an act alleged to have been done by me under the said Town Municipalities' Act

In this connection I am to state that my action in lodging the compaaint was bonafide, purely in my official capacity as ex-officio President and in the best interests of the Municipality to safeguard its property Moreover, the complaint was not lodged under any of the Provisions of the Town Muncipalities' Act as contemplated in Sec 178 of the said Act under which the notice is issued to me Further the case ended in conviction and was also confirmed in appeal though it is stated that the accused was acquitted by the High Court on a revision petition

As I am not liable to be sued in a court of law without the orders of Government as required in Rule 59 of the Rules for the conduct of Goverment servants, I request the favour of kind orders, in the above circumstances, if, I should take cognizance of the advocate's notice issued to me I may also be kindly intimated of the reply, if any, that I have to give to the advocate in the matter

With regards

"C O P Y"

For Registrar

Jsp 1/2

P T O

H V Krishna Rau, B A , LL B ,
Advocate,

No 2 Police Station Road,
Basavangudi,
Bangalore, 12th January 1943

Notice under section 178 of the
Mysore Town Municipalities Act
VIII of 1933-

To
(1) The President, The Town Municipal Council,
Arsikere Town Muncipality, Arsikere
(2) D S Raghavendrachar, Esqr , M Sc ,
Asst Registrar of Co-operative Societies, Mysore

Sir,

We are instructed by our client Mr Kolla Narasimha Setty, Merchant, Arsikere to issue the following notice to you claiming damages from you for Malicious prosecution and demanding recovery of Rs 3000/-

Our client Mr Kolla Narasimha setty was the Vice President of your Municipality in the years 1939 and 1940 He is a man in fairly well-to-do circumstances and enjoyed the respect and confidence of the rate-payers Nevertheless he had the misfortnue to incur the displeasure of some of the local residents with the result that he eventually became a victim of their machinations

That during the temporary absence of our client on leave the then President, Mr D S Raghavendrachar (who is now the Asst Registrar of Co-operative Societies, in Mysore) purporting to act on the Report of one of his sbordinates, maliciously lodged a complaint before the police on 22-11-1940, without even making a prpper enquiry into the truth of the alleged charge, for the so-called theft of Municipal water, running through pipes by utilising the same for domestic purposes

That in consequence of the compdaint, the local police made a hap-hazard investigation and placed a charge sheet before the Special First Class Magistrate of Hassan in C C No 108 of 40-4 1 under section 379 of the I P C

That after a protracted trial our client was convicted under section 379 of the I P C and sentenced to pay a fine of Rs 60/-

That on appeal in Hassan Criminal Appeal No 5 of 41-42 the conviction was confirmed but the sentence was reduced to Rs 25/-

Rs 25/-

That out client having moved the Honourable High Court of Mysore in Criminal Revision Petition 28 of 1942-43, the High Cour went into the matter fully and acquitted our client on 21-8-1942

That the main grounds on which the High Court acquitted out client were

The Muncipal Council was not the owner of the water nor was it in possession of the same
B That there was no evidence that the sanitary Engineering Department had handed over the water works to the Muncipality
C That the Prosecution had failed to show that our client did not take the permission of the Muncipal Council
D That there was no evidence that our client utilised or took the water without the permission of the party in possession

For these and other reasons our client was acquitted by the High Court

That the President of the Muncipal Council took the serious step of lodging a false and frivilous case against cour cleent for a very heninous offence- an offence if proved would deprive him of his social position and eligibility to public bodies Although our client held the responsible position of the Vice- President of the Council, the President, acted maliciously without even taking the explanation of our client

That although the trouble and expense and nental suffering experienced by our cleent in consequent of the mis-conceived action taken by the President of the Muncipal Council, cannot be adequately assessed in terms of money, our client claims damages of Rs 3000/- from the then President Mr D S Raghavendrachar in person as also from the Muncipal Council, jointly and severally

We request you to arrnge to pay the damages claimed herein, to our client Mr Kolla Narasimha setty or otherwise satisfy his demand within two months from the date of the receipt of this notice We also wish to inform you that if the aforesaid demand be not satisfied within the period of two months, we will be obliged to recover the damages from you through Courts of Law and you will be responsible for all necessary costs and expenses thereof

"C O P Y"

For Registrar

Yours truly,
(Sd) H V Krishna Rao
Advocate

Appendix F G —1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the *194*

Date of issue 17/12/43

Signed by Mr. GPRao

List of enclosures

Codied by

Examined by

Section Conf

File No 179-43

Serial No 2

Strictly confidential

No. C 8167

To

The Deputy Registrar of Co-operative Societies Mysore

Sir,

With reference to your letter no 7807 C S dated 1-2-43 Soliciting instructions as to the action to be taken in respect of the notice served on Mr D S Raghavendrachar MSc Asst-Comm doing duty as Asst-Registrar of Co-operative Societies & Ex-officio President of the Agrahara Municipal Council by Kolla Nara Simha Setty for malicious prosecution I am directed

State that Mr Raghavendracharya has
not from the
come the act in his official capacity as Sub-Collector
to Trichinopoly and the present
has been elected in his private capacity and
therefore is not ~~entitled~~ to any notice. The officer
is not entitled to take cognizance of
the notice. No notice necessary
Yes No
I have &c

&c

John Scott Secy to Govt
Law Dept